

REMARKS

Claims 1-4, 7,8 10, 11, 14-23, 26-31, 34-41 and 43-54 are all the claims pending in the application. Claims 14-18 are being amended.

I. Claim Rejections: 35 U.S.C. §101

Claims 14-18 were rejected under 35 U.S.C. § 101 as being directed to nonstatutory functional descriptive material. The Applicant herein amends the claims to indicate that the subject matter is embodied on a computer readable medium, thereby bringing the embodied claims within the known patentable subject matter of 35 U.S.C. §101. The Applicant therefore requests that the rejection of claims 14-18 under 35 U.S.C. § 101 be withdrawn.

II. Claim Rejections: 35 U.S.C. § 103

The Examiner maintained the rejection of claims 1-4, 7, 8, 11-17, 19-23, 26-29, 31-41, 43-45, and 47-53 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, U.S. Patent 6,546,002 and further in view of McNamar et al., U.S. Patent 7,089,202.

The Examiner stated, in response to the Applicant's arguments that there is no suggestion to combine the references, that

“obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (citations omitted) *In this case, one of ordinary skill in the art would*

see the advantage of including the push technology of McNamar in a wide array of technologies.”

Office Action, p. 8, emphasis added. The Applicant points out, however, that the Examiner has failed to provide any reference to Kim or McNamar that provides a teaching, suggestion or motivation to combine the references, and instead simply concludes that “one...would see the advantage...” of combining the technology in the references. The Examiner cites to no sections of Kim or McNamar that teach, suggest or provide a motivation for the advantage that the Examiner refers to.

Therefore, the Applicant maintains that the Examiner has failed to state a *prima facie* case of obviousness under 35 U.S.C. § 103(a), as there is no motivation to combine Kim and McNamar to arrive at the invention of the present claims. That McNamar and Kim could be modified in the manner suggested by the Examiner does not make the modification obvious unless the cited art suggests the desirability of the modification.

Finally, the Examiner failed to address the Applicant’s argument that McNamar does not enable one of ordinary skill in the art to practice the “push technology” that it discloses. As the combination of McNamar with Kim would not enable one of ordinary skill in the art to devise a system for aggregating content from a server to push to a terminal of a subscriber, a rejection under 35 U.S.C. § 103(a) is improper

For at least the reasons stated above, the Applicant submits that the invention of the present claims is allowable over the cited references. The Applicant respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. § 103.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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